

MN Department of Human Services
Social Services Manual

**Interstate Placement of Children for Foster Care
and Adoption**

XI-1000

Based on statutes and rules in effect as of 08/01/99

XI Interstate Placement of Children for Foster Care and Adoption

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Authority

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1. Minn. Stat. 257.03 (1998) (Notice to the Commissioner of Human Services).
2. Minn. Stat. 257.04 (1998) (Investigation).
3. Minn. Stat. 257.05 (1998) (Importation).
4. Minn. Stat. 257.06 (1998) (Exportation).
5. Minn. Stat. 260.851-260.91 (1999) (Interstate Compact on the Placement of Children).
6. Minn. Stat. 260C.007 (1999) (Definition-Child Protection Provisions of the Juvenile Court Act).
7. Minn. Stat. 260C.101 (1999) (Jurisdiction over Delinquent, Neglected, and Dependent Children).
8. Minn. Stat. 260C.201 (1999) (Dispositions; Neglected or Dependent Child).
9. Minnesota Rules, parts 9560.0350 to 9560.0370 (Interstate Placement of Children for Foster Care or Adoption).
10. Minnesota Rules, parts 9560.0500 to 9560.0670 (Foster Care for Children).
11. Minnesota Rules, parts 9560.0150 (Interstate and International Adoptive Placements).

Description of the Interstate Compact on the Placement Of Children

XI-1200

Overview and Purpose

XI-1210

The Interstate Compact on the Placement of Children provides orderly and uniform policy and procedures by which the responsible parties in two different states may determine whether the proposed placement of a child from one state into the other state, for the purpose of foster care, residential treatment, or adoption, is not contrary to the interests of the child. It establishes the continuing responsibilities and jurisdiction of the sending and receiving states. All 50 states, along with the District of Columbia and the U.S. Virgin Islands, are parties to the Interstate Compact on the Placement of Children (ICPC).

The purpose of policies governing the interstate movement of children is to provide protection for the child and to facilitate placements that are not contrary to the interests of the child.

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Goals

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Each child requiring placement for foster care, residential treatment or adoption shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide the necessary and desirable degree and type of care.

The appropriate authorities in a state where a child is to be placed will have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

The proper authorities of the state from which the placement is made may obtain the information necessary to evaluate a projected placement before it is made.

Appropriate jurisdictional arrangements for the care of children will be promoted.

Minn. Stat. 260.851, Article 1

Exclusions

XI-1230

These policies and procedures do not apply to interstate placements of children:

1. Under the Interstate Compact on Mental Health (Minn. Stat. 245.51) concerning the transfer of developmentally disabled or mentally ill children from one state's institution to another. (See SSM XI-3000 for Interstate Compact on Mental Health)
2. Covered by the Interstate Compact on Juveniles (Minn. Stat. 260.51), which is administered by the Department of Corrections, including:
 - a. Cooperative supervision of delinquent juveniles on probation or parole.
 - b. The return, from one state to another, of delinquent juveniles who have escaped or absconded.
 - c. The return, from one state to another, of non-delinquent juveniles who have run away from home.
 - d. Placement of a juvenile (on probation or parole) in a relative, family or foster home in another state.
3. Made by and with certain relatives and guardians. (See SSM XI-1350 on the Interstate Compact)

Definitions

XI-1240

1. Child: A person who is under the age of eighteen.

**Adapted from Minn. Stat. 260.851;
Part 9560.0360, subpart 1**

2. Commissioner: The Commissioner of the Minnesota Department of Human Services

Part 9560.0360, subpart 2

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3. Compact Administrator: A designated officer who shall be general coordinator of activities under this compact in their jurisdiction and who, acting jointly with like officers or other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

Adapted from Minn. Stat. 260.851, Article 7

4. Placement: The arrangement for the care of child in foster care, including trial parental placements, residential treatment or adoption, but does not include any public institution caring for the mentally ill, developmentally disabled, or a person having epilepsy, or any institution primarily educational in character, and any hospital or other medical facility.

Adapted from Minn. Stat. 260.851, Article 2

5. Receiving State: The state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

Minn. Stat. 260.851, Article 2

6. Sending Agency: An agency, or an officer or employee of a party state; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or entity which sends, brings or causes to be sent or brought any child to another party state.

Adapted from Minn. Stat. 260.851, Article 2

Compact States and the Age of Majority

XI-1250

States and U.S. territories in the Interstate Compact on Placement of Children (ICPC) are listed below. The age of majority may be extended by court orders in some states, as indicated by asterisk (*) in the list following.

<u>State</u>	<u>Age of Majority</u>	<u>State</u>	<u>Age of Majority</u>
Alabama	19	Alaska	18
Arizona	18	Arkansas	18
California	18	Colorado	21
Connecticut	18	Delaware	18
District of Columbia *	18	Florida	18
Georgia	18	Hawaii	18
Idaho	18	Illinois *	18
Indiana *	18	Iowa	18
Kansas	18	Kentucky	18
Louisiana	18	Maine	18
Maryland	18	Massachusetts	18
Michigan	18	Minnesota	18

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Mississippi	21	Missouri *	18
Montana	18	Nebraska	19
Nevada	18	New Hampshire	18
New Jersey	18	New Mexico	18
New York	18	North Carolina	18
North Dakota	18	Ohio	18
Oklahoma	18	Oregon *	18
Pennsylvania	21	Rhode Island	18
South Carolina	18	South Dakota	18
Tennessee	18	Texas	18
Utah	18	Vermont	18
Virginia	18	Virgin Islands	18
Washington	18	West Virginia	18
Wisconsin	18	Wyoming	19

General Provisions Applicable to All Placements

XI-1300

Policy

XI-1310

Placement of children to and from other parties to the Interstate Compact on the Placement of Children (ICPC) shall be made in accordance with the current terms of the ICPC.

Part 9560.0370, subpart 1

Initiation of Interstate Compact Procedures

XI-1320

Interstate Compact procedures shall be initiated when:

1. An agency, court, or other legally responsible entity in Minnesota wishes to place a child in its custody in:
 - a. A boarding or foster family home in another state.
 - b. A child-caring institution in another state.
 - c. Foster care in the home of a parent, relative or kin in another state.
 - d. An adoptive home in another state.

Minn. Stat. 260.851, Article 2a

2. An agency in Minnesota requests supervision from the receiving state on a child and the child's foster family, or the child's prospective adoptive family, who will be moving into that state.

Adapted from Minn. Stat. 260.851, Article 3

3. A person (including a parent or relative) wishes to place a child in their legal or physical custody with someone other than the child's grandparent, sibling, aunt or uncle, or with a foster family, in a child-caring institution, or in a prospective adoptive home, in another state.

Adapted from Minn. Stat. 260.851, Article 2

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Responsibilities of the Sending State

XI-1330

Jurisdiction for the child remains with the sending agency. The agency or person having responsibility for the child retains legal, financial and medical responsibility for the child until the Interstate Compact on the Placement of Children is terminated.

The agency in the sending state shall retain the responsibility for the final decision on matters affecting the overall placement plans for the child. The receiving agency shall act as the agent of the sending agency.

Adapted from Minn. Stat. 257.40, Article 5

Placements shall not be made until written consent is obtained from the receiving state.

Adapted from Minn. Stat. 257.40, Article 3

Excluded Relatives and Guardians

XI-1340

The Interstate Compact on Placement of Children (ICPC) shall not apply to the sending or bringing of a child into a receiving state by his or her parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's guardian, and leaving the child with any such relative or nonagency guardian in the receiving state when they have the legal authority to do so.

Minn. Stat. 257.40, Article 8a

Interstate Compact on the Placement of Children Regulations

XI-1400

Compact Administrator

XI-1410

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

Minn. Stat. 260.851, Article 7

ICPC Regulation I: Placement

XI-1411

1. Placement: Whenever a child is placed in contemplation of adoption or in foster care without an intention that adoption may follow, the arrangement, consent or permission (expressed or implied), in which the child resides in a state other than the one in which the sending agency is situated shall be a placement. Accordingly, an intrastate placement not subject to the Compact may become an interstate placement at some subsequent time prior to the finalized adoption or during the foster care placement, if the home is moved to another state.
2. If the home and the persons responsible for the care of the child have been investigated pursuant to the laws of the state in which a placement initially intrastate in character is made, the investigation shall be only for the purpose of ascertaining whether any special needs which the child may have cannot

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reasonably be met in the community or area where the interstate placement is proposed to be made. However, the public authorities in the receiving state may monitor the placement for the sending agency and inform the sending agency of any change in the circumstances and conditions of the placement which affect or may affect its suitability.

3. When making an intrastate placement, a person or agency making the placement should inform the person(s) with whom the placement is made that removal of the child's regular place of abode to another state will constitute the conversion of the placement to an interstate placement and that the Compact will apply.

Adapted from Article VII, ICPC, May 1, 1973

ICPC Regulation II: Licensed Programs

XI-1412

1. Programs of public or private agencies in which children are placed in family homes as an incident to their attendance at schools in communities in other states are foster care placements. The home rather than the educational institution provides child care and supervision during the time when the child is not in attendance at the school program.
2. The agency administering these programs may investigate or make arrangements for these investigations and prepare reports on homes in advance and may offer these reports to the Compact Administrator as part of the information supplied in connection with an intended placement. The report must be current, within six months of the date of its submission in connection with an intended placement.
3. Any home in which a child is placed or proposed to be placed shall obtain and maintain such license or approval as a child care or foster home as the laws and implementing regulations of the receiving state require. The license or approval shall be in full force and effect at the time when the sending agency gives notice of the intended placement and at all times during the continuance of the placement. Failure to meet this condition shall be sufficient ground for denial of an affirmative notice.
4. The operator of a program which uses family homes to provide board and lodging, child care and supervision or foster care in order to facilitate the securing of education by children in communities other than their own may consolidate notifications of intended placements provided that all of the information is contained in or accompanies the consolidated submission. The information and documents shall include:
 - a. Name of child, together with age, sex and such other basic identifying information as may be appropriate.
 - b. Name of parents, responsible relative or guardian and address.

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- c. Identification by name and address of family home in which the child is intended to be placed, together with a copy of the child caring or foster care license or approval, if any is required by the laws of the receiving state.
 - d. A statement that the sending agency is familiar with the conditions in the home and with the family members and that, on the basis of such familiarity, has determined that having the child there for the school year does not appear to be contrary to the interests of the child.
 - e. A statement from the sending agency that it undertakes to return any child to its parents or guardian or to make an alternative arrangement for the child whenever and if the then current arrangement becomes inadequate or when the parent or guardian requests return.
 - f. A copy of the agreement between the parent or guardian and the sending agency regarding the child's program.
 - g. A statement of the sending agency detailing the manner in which the regular and any special or extraordinary medical care needs of the child will be met.
 - h. Any supporting or additional information that may be requested.
5. The operator of a program to which this regulation applies shall:
- a. Notify the Compact Administrator of the receiving state promptly if the child is returned to his parental or guardian home or sent to another home during the school year as part of an arrangement to facilitate continuance in the program.
 - b. Notify the Compact Administrator of the receiving state promptly upon the child's return to his parental or guardian home at the end of the school year.
 - c. Send promptly to the Compact Administrator of the state from which the child was placed a copy of any notice sent related to subparagraphs a. or b., if the laws or regulations of the state require it.
6. If a child in the program is placed from one home to another home, the action shall be considered a new placement and shall require the same notifications, furnishing of information and documentation, and receipt of a notice as an initial placement.
7. These special procedures apply only to programs in which the parents or guardian retain full custodial rights, and by the giving or withholding of consent, determine, the location and the program for the child. This applies only to programs which afford children educational opportunities but in which residential schools or other residential institutions are not utilized to provide the educational program.

Adapted from Article VII, ICPC, May 27, 1977

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ICPC Regulation III: Exempted Placements

XI-1413

1. Placement includes the arrangement for the care of a child in the home of his parent, other relative, or non-agency guardian in a receiving state when the sending agency is any entity other than a parent, relative, or non-agency guardian making the arrangement for care as a plan exempt under Article VII(a) of the Compact.
2. Conditions for Placement as established by Article III apply to any placement as defined in Article II (d) and Regulations adopted by action of the Association of Administrators of the Interstate Compact on the Placement of Children.
3. Article VIII (a) of this Compact applies only to the sending or bringing of a child into a receiving state to a parent or other specified individual by a parent or other specified individual whose full legal right to plan for the child has been established by law at a time prior to initiation of the placement arrangement, and has not been voluntarily terminated, or diminished or severed by the action or order of any Court.

Adapted from Article VII, ICPC, April 19, 1978

ICPC Regulation IV: Definitions of Exempted Institutions

XI-1414

1. In determining whether the sending or bringing of a child to another state is exempt from the provisions of the Interstate Compact on the Placement of Children by reason of the exemption for various classes of institutions, the following concepts and terms have the following meanings:
 - a. **Primarily Educational Institution:** An institution which operates one or more programs that can be offered in satisfaction of compulsory school attendance laws, in which the primary purpose of accepting children is to meet their educational needs; and which: (1) does not accept responsibility for children during the entire year; (2) does not provide or hold itself out as providing child care constituting nurture sufficient to substitute for parental supervision and control or foster care; (3) does not provide any other services to children, except for those customarily regarded as extracurricular or cocurricular school activities, pupil support services, and those services necessary to make it possible for the children to be maintained on a residential basis in the school program(s).
 - b. **Hospital:** An institution for the acutely ill which discharges its patients when they are no longer acutely ill, which does not provide or hold itself out as providing child care in substitution for parental care or foster care, and in which a child is placed for the primary purpose of treating an acute medical problem.
 - c. **Institution for the Mentally Ill or Developmentally Disabled:** An institution which provides medical care and treatment; psychiatric care and treatment,

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- corrective, therapeutic or rehabilitative treatment for mentally ill or developmentally disabled persons. Such an institution is not altered in its character as an institution for the mentally ill or developmentally disabled merely because it provides child care services to these patients as part of a comprehensive program of treatment.
2. This regulation applies only to residential institutions. In cases where children attend school or other educational programs, but are not housed or cared for on a 24-hour a day basis by the school or educational program, and where a placement occurs, the placement shall be deemed to be made with the person, family, agency or institution which provides the 24-hour a day housing and care during the period of school or other educational attendance. In the case of a hospital or an institution for the mentally ill or developmentally disabled, this does not apply to outpatient care.
 3. A residential institution may be exempt with respect to some children and not exempt with respect to others. The test is whether, in a particular case, the institution provides child caring or other services which, if provided by a family or individual other than the child's parents, would constitute foster care (with or without payment).
 4. The type of license, if any, held by an institution is evidence of its character, but whether an institution is either generally exempt from the need to comply with the Interstate Compact on the Placement of Children or exempt in a particular instance is to be determined by the services it actually provides or offers to provide. In making these determinations, the criteria set forth in this regulation shall be applied.

Adapted from Article VII, ICPC, April 20, 1982

ICPC Regulation V: Compact Office

XI-1415

It shall be the responsibility of each state party establish a procedure by which all Compact referrals from and to the state shall be made through a central Compact Office. The Compact Office shall also be a resource for inquires into requirements for placements into the state for children who come under the purview of this Compact. The Compact Administrator and deputies appointed by the executive head of each state shall be located in this central state office.

Adapted from Article VII, ICPC, April 20, 1982

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ICPC Regulation VI: Use of ICPC-100A: Placement

XI-1416

Permission to place a child given shall be valid and sufficient to authorize the making of the placement identified in the written document (**ICPC-100A**) by which the permission is given at any time during a period of six months beginning on the date when the receiving state compact administrator signs the notice required by Article III (d). Upon the placement being made, it may continue until one of the events enumerated in Article V (a) of the Compact causes its termination.

Adapted from Article VII, ICPC, May 8, 1991

ICPC Regulation VII: Procedures for Priority Placement of a Child

XI-1417

For information regarding the priority placement of a child and the procedures and timelines for priority placements, see SSM XI-1530.

ICPC Regulation VIII: Use of ICPC-100B: Change of Placement Purpose

XI-1418

An **ICPC-100B** should be prepared and sent with its accompanying instructions whenever there is a change of purpose in an existing placement, e.g., from foster care to preadoption even though the placement recipient remains the same. However, when a receiving state requests a new **ICPC-100A** in such a case, it should be provided by the sending agency and transmitted in accordance with usual procedures for processing of **ICPC-100A**'s.

Adapted from Article VII, ICPC, April 30, 1997

ICPC Regulation IX: Definition of a Visit

XI-1419

1. A visit is not a placement. Visits and placements are distinguished on the basis of purpose, duration, and the intention of the person or agency with the responsibility for planning for the children as to the child's place of abode.
2. The purpose of a visit is to provide the child with a social or cultural experience of short duration, such as a state in a camp or with a friend or relative who has not assumed legal responsibility for providing child care services.
3. A visit for 24 hours or longer will necessarily involve the provision of some services in the nature of child care by the person or persons with whom the child is staying. The provision of these services will not, of itself, alter the character of the stay as a visit.
4. If the child's stay is intended to be for no longer than 30 days and if the purpose is as described in paragraph 2, it will be presumed that the circumstances constitute a visit rather than a placement.
5. A stay or proposed stay of longer than 30 days is a placement or proposed placement, except that a stay of longer duration may be considered a visit if it begins and ends within the period of a child's vacation from school as ascertained from the academic calendar of the school. A visit may not be extended or renewed in a manner which causes or will cause it to exceed 30 days or the school vacation period. If a stay does not from the outset have an express terminal date, or if its

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duration is not clear from the circumstances, it shall be considered a placement or proposed placement and not a visit.

6. A request for a home study or supervision made by the person or agency which sends or proposes to send a child on a visit will conclusively establish that the intent of the stay or proposed stay is not a visit.

Adapted from Article VII, ICPC, April 26, 1983

Procedures for All Interstate Placements

XI-1500

Child Leaving Minnesota

XI-1510

Initiation of Interstate Compact Procedures and Commissioner's Approval

XI-1511

The requirements of the Interstate Compact on the Placement of Children (ICPC) must be met prior to the Commissioner's consent for a child to leave the state for the purpose of foster care or adoption.

Specific Procedures

XI-1512

1. Prior to sending a child into a receiving state for placement in foster care, residential treatment, or as a preliminary to a possible adoption, the sending agency shall furnish the Compact Administrator in the sending state written notice of the intention to send, bring, or place the child in the receiving state. This written notice is made by using form **ICPC-100A (DHS 1542a)- Interstate Compact Application Request to Place Child**. (See SSM XI-1720 for form)

Also, the following supporting documents are needed, in triplicate:

- a. A cover letter requesting placement of the child in the other state with enough information to tell the other state about the needs of the child.
 - b. A copy of the current court order or other declaration of the legal status of the child indicating who has authority to make decisions and act for the child.
 - c. The identification of the person or authority financially responsible for the placement of the child. (See SSM XI-1740 for **Financial and Medical Plan (ICPC MN 9198)**)
 - d. The social service plan for the child including the placement needs and expectations for the child.
2. The Compact Administrator in the sending state sends two of the three packets to the Compact Administrator in the receiving state.
 3. Upon receiving the written notice and supporting documents, the Compact Administrator in the receiving state forwards the referral to the appropriate party in their state for action. This party will usually be a local public or private child welfare agency or the residential facility that is being asked to accept the child. The action needed on the request will vary depending on the nature of the

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- placement and may include a study of the prospective adoptive or foster home, or a review of the facility to determine whether this placement will meet the child's needs.
4. Once the receiving agency completes the necessary work, it prepares a report that includes its recommendation about whether or not the placement should be made. The agency forwards the information to the Compact Administrator in its own state.
 5. If the receiving agency's review is favorable and if the Compact Administrator decides that the relevant state laws are met, the Administrator approves the placement. If, however, the receiving agency does not recommend a placement or if the Compact Administrator determines that the placement cannot be lawfully made, the placement will be denied unless the problems can be remedied. The Compact Administrator records the placement decision on the **ICPC-100A (DHS 1542a)**.
 6. The Compact Administrator in the receiving state notifies the Compact Administrator in the sending state of its decision by forwarding copies of the completed and signed **ICPC-100A (DHS 1542a)** to the Compact Administrator in the sending state. The Compact Administrator in the sending state sends one copy of the completed and signed **ICPC-100A** to the sending agency.
MN-DHS ICPC Guidelines booklet
 7. Six weeks or 30 business days is the recommended processing time.
 8. After an interstate placement has been approved and after the placement has occurred, the **Interstate Compact Report on Child Placement Date or Status (ICPC-100B) (DHS 1542b)** is completed by the sending agency and three copies are sent to the sending Compact Administrator, who then forwards two copies to the Compact Administrator in the receiving state. The Compact Administrator in the receiving state forwards one copy to the receiving agency as official notice to begin supervision of the placement. This form is also used to indicate placement changes, to withdraw a placement request, and to close the case. (See SSM XI-1730)

Child Entering Minnesota

XI-1520

1. When another state requests services from a Minnesota agency, the Compact Administrator in Minnesota will forward the request and all supporting documents to the appropriate agency.
2. The agency shall, within 30 business days, determine whether the proposed placement is not contrary to the interests of the child.
3. If the agency recommends placement, the local agency shall furnish the Compact Administrator sufficient information to support this recommendation.

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4. If the agency recommends the placement be denied, the agency shall furnish the Compact Administrator sufficient information to support the recommendation.
5. The Compact Administrator will notify the Compact Administrator in the sending state of the decision by forwarding two copies of the completed and signed **ICPC-100A** to the sending state.
6. Progress or other reports sent by the local agency to sending state may be sent directly to the sending agency, unless that State has declared that all reports must be routed through Interstate channels. Should any difficulties in the placement arise, the Compact Administrator, or staff, are available for consultation and assistance.

Priority Placement of a Child (ICPC Regulation VII)

XI-1530

When a court decides that priority placement of a child needing out of home placement is required, it must make and sign an order embodying its finding. A court may be requested to make this finding, it may initiate the motion itself, or it may give court approval to an existing finding. The order should include the name, address, telephone number, and, if available, the fax number of the judge and the court.

A court order stating that a child is entitled to a priority placement is not valid unless it contains an express finding that one or more of the following circumstances apply to the particular case and explains the facts on which it bases its finding:

The person with whom a child is to be placed is a relative belonging to the class of persons who, according to Article VIII (a) of the Interstate Compact for the Placement of Children, can receive a child from a person belonging to such a class without complying with the Interstate Compact for the Placement of Children and the child is either 1. under two years of age; 2. in an emergency shelter; or 3. has spent a substantial amount of time in the home of a proposed placement recipient.

The Compact Administrator in the receiving state has had a properly completed **Interstate Compact Application Request to Place Child (ICPC-100A)** and the supporting documentation for 30 business days but the sending agency has not received a notice pursuant to Article III (d) of the Interstate Compact for the Placement of Children determining whether the child may or may not be placed.

Procedures and Timelines

XI-1531

The following are procedures and timelines for priority placements:

1. Within two business days, the court sends its order for priority placement to the sending agency (county social services agency).
2. Within three business days, the sending agency, at the court's request, transmits to the sending state's Compact Administrator, two documents. These include a signed court order and a completed form: **Interstate Compact Application Request to Place Child (ICPC-100A)** and supporting documentation pursuant to Article III of the Interstate Compact for the Placement of Children.

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3. Is no more than two business days from receiving the above information, the Compact Administrator from the sending state transmits to the Compact Administrator in the receiving state the priority request and its accompanying documentation. The Administrator must include a notice that the request for placement must have priority processing. The Compact Administrator who sends the information shall transmit it by overnight mail together with a cover notice calling attention to the priority status of the request.
4. In no more than 20 business days from the time that the Compact Administrator received the priority request by overnight mail, the Administrator should make a determination pursuant to Article III (d) of the Interstate Compact for the Placement of Children. The Administrator should immediately send by fax to the Compact Administrator in the sending state the completed form titled: **Interstate Compact Application Request to Place Child (ICPC-100A)**. In Minnesota, this means that the local social services agency receiving the priority request must make the determination within 20 days to notify Minnesota's Compact Administrator.

Placement Without an Approved Interstate Compact or the Commissioner's Consent

XI-1540

1. When a child is found to have been placed in Minnesota without an approved Interstate Compact agreement, the local social services agency shall carry out the duties of the Commissioner and provide all appropriate child protective services as prescribed by state law and the ICPC.

**Adapted from Minn. Stat. 245.783;
Minn. Stat. 257.03-257.04;
Minn. Stat. 260.015, subd. 10f**

2. The local social services agency shall: inform the child's caretaker in writing that the placement is in violation of Minnesota Statutes. The local agency actions may include, but are not limited to:
 - a. Working with other state's ICPC office to bring the placement into compliance according to ICPC guidelines.
 - b. Obtaining temporary legal custody. This means that Minnesota assumes full financial and legal responsibility for the child.
 - c. Returning the child to a responsible party in the state of origin.

Adapted from Minn. Stat. 257.05

Placement Violations

XI-1541

When a child is brought into Minnesota in violation of the Interstate Compact, the local social services agency shall give serious consideration to the implications of allowing the child to remain in the state without any legal protections.

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Any legal actions by an out-of-state court concerning placement of this child into Minnesota are not valid in Minnesota unless there is an approved Interstate Compact Agreement on that child's placement.

If the child's placement, for purposes of foster care or residential treatment, cannot be brought under Compact coverage, then the child's placement in Minnesota is in violation of the Compact and the child is without protection. In this instance, the plan shall be to return the child to the sending state unless the Minnesota court determines that it will assume jurisdiction under the Juvenile Court Act.

Unless the question of the child's placement in Minnesota for the purpose of adoption is resolved, either through placement under the Interstate Compact or determination that the child is a Minnesota responsibility, a legal adoption in Minnesota could be open to future challenge.

Interstate Compact Secretariat Opinions

Interstate and International Adoption

XI-1600

Conditions for Placement Crossing State Lines

XI-1610

No child may be brought into or sent out of the state of Minnesota for adoptive placement into a nonrelative's home, unless the Administrator of the Interstate Compact on the Placement of Children issues written approval for the importation or exportation pursuant to the requirements of that Compact.

**Minn. Stat. 257.05-257.06;
Minn. Stat. 260.851;
Part 9560.0150 subpart 1**

Criteria for Interstate Adoptive Placement

XI-1620

The Interstate Compact on the Placement of Children, for the purpose of adoption, applies when the following conditions exist:

1. a. the child is or will be relinquished to a licensed child-placing agency in the child's state of residence. That agency desires to consider a specific family in another state which that agency has selected or wishes to have evaluated, or
- b. the licensed child-placing agency in the child's state of residence is assisting the child's parent, as the "sending agency," to request the child's placement into the home of a person living in another state who is a relative beyond the degree of relationship which is excluded from the Interstate Compact requirements.
2. a licensed child-placing agency in the sending state has the authority to make adoptive plans for the child and requests the child's importation into or out of Minnesota; or
3. a family plans to move into or out of Minnesota and has a child already placed with them according to the laws of Minnesota or the other state.

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Based on statutes and rules in effect as of 08/01/99

The Interstate Compact Administrator must receive the **Interstate Compact Request to Place Child (ICPC-100A) (DHS 1542a)** along with the following supporting documentation, in triplicate:

1. For Independent/Agency Placements:
 - a. social/Medical History of the birth parent(s);
 - b. legal documents showing child is free for adoption;
 - c. medical/Hospital discharge information of the child;
 - d. copy of birth certificate, if available;
 - e. adoptive family's home study;
 - f. cover letter explaining placement plans for the child.
2. For State Ward Placements:
 - a. social/Medical History of the birth parent(s);
 - b. findings and Order (Termination of Parental Rights);
 - c. social summary of the child (this includes any assessments and evaluations);
 - d. title IV-E documentation, if eligible;
 - e. adoptive family's home study, if available;
 - f. cover letter explaining the placement plans for the child.

**Minn. Stat. 257.05-257.06;
Minn. Stat. 260.851;
Part 9560.0150, subpart 3**

Unlicensed Third Party

XI-1630

The Commissioner shall not issue consent or approval for movement of a child across state lines when the proposed placement is planned or made by an unlicensed third party.

Part 9560.0150, subpart 2

International Adoptions

XI-1640

The Commissioner shall receive from the Minnesota public or private agency, prior to any placement of any child(ren) from a foreign country, a valid and approved adoptive home study of the prospective adoptive family. Upon receipt of the home study, the Commissioner will review the home study of the prospective adoptive family and if approved, shall issue the Department's consent stating that the family is a qualified applicant under the laws of the State of Minnesota. This letter shall also be issued to the Immigration and Naturalization Service for their review.

Adapted from Minn. Stat. 257.05

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Based on statutes and rules in effect as of 08/01/99

Importation: Commissioner's Consent or Approval

XI-1650

The Commissioner, upon receipt of all required documentation, shall issue consent or approval for importation when the foreign country allows the child to be exported for the purpose of adoption in the United States.

Adapted from Minn. Stat. 257.05

Documents and Correspondence

XI-1660

The documents required for the Commissioner's **Consent and Approval for Importation (DHS 85a)** are:

1. An authorized child-placing agency's written confirmation that the family is approved for adoptive placement.
2. A legal document that identifies the child, the child's birth date, birthplace, and parentage.
3. Legal documents that demonstrate that the child has been properly released for adoption.
4. The child's background summary and health history.

Adapted from Part 9560.0150, subpart 4

NOTE: In some intercountry adoptions, the child's history may not be available or may be summarized in the legal documents. The history should be included whenever possible.

Forms

XI-1700

Consent and Approval for Importation (DHS 85a)

XI-1710

**Interstate Compact Application Request to Place Child (ICPC-100A)
(DHS 1542a)**

XI-1720

Interstate Compact Report on Child Placement Date or Status (ICPC-100B) (DHS 1542b)

XI-1730

Financial and Medical Plan (ICPC MN 9198)

XI-1740